IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7135 OF 2004

1.Manisha A. Tilwankar)
Age 26 years, Occ.Housewife)
R/at.B-10, Bopodi,Pune-28)
2.Anita Prakash Rathod,)
Age 27 years, Occ.Service,)
R/at.Gurav Pimpale, Pune.)
3.Fatima Salim Mullani, Age 42)
Years, Occ.Housewife,)
R/at. Kohinoor Classes, Bhau)
Patil Road, Bopodi, Pune.)..Petitioners

Versus

1.Sau.Shailaja Manik Khedekar,)
Age 48 years, R/at.Bombay)
Poona Road, Bopodi,Pune-3)
2.Committee for Verification of)
SC/DTNT/OBC and SBC Caste)
Certificate through its Member)
Secretary, having office at)
Pune Division, Pune.)..Respondents
3.Pune Municipal Corporation,)
through the Commissioner,)
having office at Pune.)
4.State Election Commissioner,)
New Administrative Bldg.,)
Madam Cama Road, Mumbai-32.)
5.State of Maharashtra through)
Tribal Development Dept.,)
Mantralaya, Mumbai-32.)

Mr. M.V. Limaye, for the Petitioner.
Mr. A.P. Vanarse, AGP for the Respondents 2 & 5.

CORAM: F.I. REBELLO & S.P.KUKDAY, JJ.
DATE : 19th April,2005

ORAL JUDGMENT (PER F.I. REBELLO, J):

. The petitioners had challenged the election of respondent No.1 on the ground that she had contested a seat meant for a reserved category namely O.B.C. without belonging to O.B.C. The petitioners have sought to rely on the fact that earlier the Respondent No.1 had contested a seat as belonging to

Hindu Maratha community. The objections were heard by the Caste Scrutiny Committee. Various documents which were produced were also considered. Similarly the Committee got the report submitted through the Vigilance Squad and on appreciation of the documentary evidence before them came to the conclusion that the Respondent No.1 belonged to the Kunbi community which is a notified O.B.C.

2. The petitioners have principally challenged the order on the ground that the Chairman of the Committee had not participated in the proceedings and a different person had signed the order. A reply has been filed by Anil Pandurang Kamble, Member Secretary. In the said reply it is set out that the Chairman Mr. Sanjay Sethi , Additional Commissioner, Pune Division, Pune was on leave from 14th July, 2003 to 28th July, 2003 and since he was on leave during the said period Mr. Shankarrao Satav, Deputy Commissioner, Pune division, Pune was asked to take over charge which in fact were handed over to Mr. Satav on 11th July, 2003. Mr. Shankarrao Satav thereafter for the said period has acted as the Chairman of the Caste Scrutiny Committee. The order is passed during the period when Mr. Satav was acting as Chairman. Considering the above that contention will have to be rejected.

3. It was next submitted that the petitioners were not given an opportunity of hearing. From the

record and the order it is disclosed that the petitioners were called upon to appear before the Committee on 2nd July, 2003. On that day the petitioner sought more time to produce evidence. The matter was fixed on 19th July, 2003 on which date the evidence was produced. The decision by the Committee was thereafter taken on 23rd July, 2003 and order issued on 28th July, 2003. It, therefore, cannot be said that the petitioners were not given sufficient opportunity to present their case.

. It is then contended that the documents filed by the petitioners were not considered. We have considered the impugned order. We find that the documents submitted by the petitioners have been listed. There is nothing on record to show that any other document relevant to the issue which was placed before the Committee has not been considered. That contention must also be rejected.

. The Committee considering the documentary evidence has come to the conclusion that the respondent No.1 belonged to the Kunbi Community. It could have been possible for the Committee to have come to another decision also. However, that would not be a ground for this Court in the exercise of its extra ordinary jurisdiction to interfere with the said finding of fact unless it was based no evidence or perverse. In the instant case there was documentary evidence. It is no doubt true that in

the school leaving certificate of the respondent No.1 she was shown as belonging to Hindu Maratha community. The Committee has relied on the land records of the grandfather, great grand father as also the death certificate of Jangle Sadhu Borker, who is an uncle of the respondent No.1. The mere fact that earlier she had contested on the basis that she was Hindu Maratha would not estop her from establishing that in fact she belongs to the Kunbi O.B.C. Considering the above no interference called for. Petition rejected.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)